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Copyright Royalty Board

37 CFR Part 386

[Docket No. 15-CRB-0009 SA (2015)]

Cost of Living Adjustment to Satellite Carrier Compulsory License Royalty Rates

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges announce a cost of living adjustment (COLA) of 1.7% in the royalty rates satellite carriers pay for a compulsory license under the Copyright Act. The COLA is based on the change in the Consumer Price Index from October 2013 to October 2014.

DATES: *Effective Date:* [insert date of publication in the Federal Register].

Applicability Dates: These rates are applicable to the period January 1, 2015, through December 31, 2015.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, CRB Program Specialist, by telephone at (202) 707-7658 or by e-mail at crb@loc.gov.

SUPPLEMENTARY INFORMATION: The satellite carrier compulsory license establishes a statutory copyright licensing scheme for the retransmission of distant television programming by satellite carriers. 17 U.S.C. 119. Congress created the license in 1988 and has reauthorized the license for additional five-year periods, most recently with the passage of the STELA Reauthorization Act of 2014, Public Law 113-200.

On August 31, 2010, the Copyright Royalty Judges (Judges) adopted rates for the section 119 compulsory license for the 2010–2014 term. *See* 75 FR 53198. The rates were proposed by Copyright Owners and Satellite Carriers¹ and were unopposed. *Id.* Section 119(c)(2) of the Copyright Act provides that, effective January 1 of each year, the Judges shall adjust the royalty fee payable under Section 119(b)(1)(B) “to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index (for all consumers and for all items) [CPI–U] published by the Secretary of Labor before December 1 of the preceding year.” Section 119 also requires that “[n]otification of the adjusted fees shall be published in the Federal Register at least 25 days before January 1.” 17 U.S.C. 119(c)(2). Today’s notice fulfills this notice obligation.²

The change in the cost of living as determined by the CPI-U during the period from the most recent index published before December 1, 2013, to the most recent index published before December 1, 2014, is 1.7%.³ Application of the 1.7% COLA to the current rate for the secondary transmission of broadcast stations by satellite carriers for private home viewing — 27 cents per subscriber per month — results in a rate of 27 cents per subscriber per month (rounded to the nearest cent). *See* 37 CFR 386.2(b)(1). Application of the 1.7% COLA to the current rate for viewing in commercial establishments—55 cents per subscriber per month—results in an adjusted rate of 56 cents per subscriber per month (rounded to the nearest cent). *See* 37 CFR 386.2(b)(2).

¹ Program Suppliers and Joint Sports Claimants comprised the Copyright Owners while DIRECTV, Inc., DISH Network, LLC, and National Programming Service, LLC, comprised the Satellite Carriers.

² Given passage of the act extending the Section 119 license in December 2014, publication of the rate adjustment 25 days prior to January 1, 2015, would have been impracticable, if not impossible. On March 30, 2015, the Judges published notice of the commencement of a proceeding to set rates under section 119 of the Copyright Act, but subsequently withdrew the notice after determining that the reauthorization of STELA obviated the need for a rate proceeding.

³ On November 20, 2014, the Bureau of Labor Statistics announced that the CPI-U increased 1.7% over the last 12 months.

List of Subjects in 37 CFR Part 386

Copyright, Satellite, Television.

Final Regulations

In consideration of the foregoing, the Judges amend part 386 of title 37 of the Code of Federal Regulations as follows:

PART 386—ADJUSTMENT OF ROYALTY FEES FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS

1. The authority citation for part 386 continues to read as follows:

Authority: 17 U.S.C. 119(c), 801(b)(1).

2. Section 386.2 is amended by adding paragraphs (b)(1)(vi) and (b)(2)(vi) to read as follows:

§ 386.2 Royalty fee for secondary transmission by satellite carriers.

* * * * *

(b)***

(1) * * *

(vi) 2015: 27 cents per subscriber per month (for each month of 2015)¹.

(2) * * *

(vi) 2015: 56 cents per subscriber per month (for each month of 2015)².

Dated: April 16, 2015

¹ This is the 2014 rate adjusted for the amount of inflation as measured by the change in the Consumer Price Index for All Urban Consumers All Items from October 2013 to October 2014.

² This is the 2014 rate adjusted for the amount of inflation as measured by the change in the Consumer Price Index for All Urban Consumers All Items from October 2013 to October 2014.

Suzanne M. Barnett,
Chief Copyright Royalty Judge.

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